

City Clerk File No. Ord. 15.047

Agenda No. 3.A 1st Reading

Agenda No. \_\_\_\_\_ 2nd Reading & Final Passage



## ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 15.047

TITLE: **ORDINANCE AMENDING ORDINANCE 03-061 TO AUTHORIZE THE IMPOSITION OF ENVIRONMENTAL DEED RESTRICTIONS ON BLOCK 23103, LOT 23, MORE COMMONLY KNOWN AS 271-285 MARTIN LUTHER KING DRIVE, THE CUNNINGHAM LIBRARY**

**COUNCIL** offered and moved adoption of the following Ordinance:

**WHEREAS**, Ordinance 03-061, adopted on May 14, 2003 authorized the transfer of property known as 271-285 Martin Luther King Drive, Block 23103, Lot 23 f/k/a as Block 1301, Lot A [the Property] from the Jersey City Redevelopment Agency (JCRA) to the City of Jersey City (City) pursuant to N.J.S.A. 40:54-24 because title of a library building must be held in the name of the municipality; and

**WHEREAS**, during the course of constructing certain improvements to the Property; it was determined that it contained historic fill contaminant materials and was encapsulated with concrete floors, asphalt pavement and imported clean soil; and

**WHEREAS**, it appears prior to the transfer of the Property, JCRA entered into a former Voluntary Cleanup Program and submitted a Memorandum of Agreement application and Remedial Action Workplan (RAW) to the New Jersey Department of Environmental Protection (NJDEP); and

**WHEREAS**, because contaminants will remain in the Property, the NJDEP requires the property owner to execute a deed notice restricting the use of the Property, preserving the environmental remedial actions performed on the Property and otherwise subjecting the Property to certain statutory and regulatory controls; and

**WHEREAS**, the RAW report proposed an engineering cap and institutional deed notice controls to address the impacted historic fill present on the Property; and

**WHEREAS**, in order for the matter to be closed out with NJDEP, a deed notice is to be executed and recorded by the City; and

**WHEREAS**, the Property is being used for the Jersey City Public Library-Cunningham Branch; and

**WHEREAS**, the NJDEP will require that periodic site inspections be conducted and biennial cap inspection reports be submitted by a Licensed Site Remediation Professional (LSRP).

**NOW, THEREFORE, BE IT ORDAINED**, by the Municipal Council of the City of Jersey City that:

1. The Mayor or Business Administrator is authorized to execute and record the Deed Notice to impose certain environmental controls and use restrictions on 271-285 Martin Luther King Drive, Block 23103, Lot 23 f/k/a Block 1301, Lot A.

**ORDINANCE AMENDING ORDINANCE 03-061 TO AUTHORIZE THE IMPOSITION OF ENVIRONMENTAL DEED RESTRICTIONS ON BLOCK 23103, LOT 23, MORE COMMONLY KNOWN AS 271-285 MARTIN LUTHER KING DRIVE, THE CUNNINGHAM LIBRARY**

2. The Deed Notice shall be in substantially the form attached hereto, subject to such modifications as the Business Administrator or the Corporation Counsel deems necessary or appropriate.
  3. A copy of the Deed Notice shall be filed on record with the Jersey City Office of the City Clerk and Department of Public Works, Division of Engineering; and
  4. The Mayor or Business Administrator is authorized to execute any other documents necessary or appropriate to effectuate the purposes of the within Ordinance.
- 
- A. All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.
  - B. This Ordinance shall be a part of the Jersey City Code as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
  - C. This Ordinance shall take effect at the time and in the manner as provided by law but in no event prior to the adoption of the Ordinance approving the Morris Canal Redevelopment Plan.
  - D. The City Clerk and the Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

**NOTE:** All material is new; therefore, underlining has been omitted.  
For purposes of advertising only, new matter is indicated by  
**bold face** and repealed matter by *italic*.

IGW/cw  
03/30/15

APPROVED AS TO LEGAL FORM

APPROVED: \_\_\_\_\_

\_\_\_\_\_  
Corporation Counsel

APPROVED: \_\_\_\_\_  
Business Administrator

Certification Required ☐

Not Required ☐

**RESOLUTION FACT SHEET – NON-CONTRACTUAL**

This summary sheet is to be attached to the front of any resolution that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the resolution.

**Full Title of Ordinance/Resolution**

**ORDINANCE AMENDING ORDINANCE 03-061 TO AUTHORIZE THE IMPOSITION OF ENVIRONMENTAL DEED RESTRICTIONS ON BLOCK 23103, LOT 23, MORE COMMONLY KNOWN AS 271-285 MARTIN LUTHER KING DRIVE, THE CUNNINGHAM LIBRARY**

**Initiator**

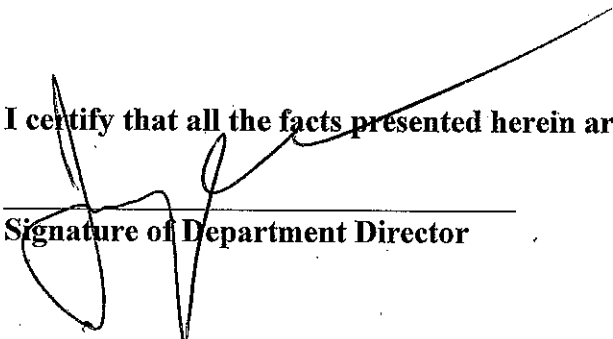
Department/Division	Law	Law
Name/Title	Itza Wilson	Assistant Corporation Counsel
Phone/email	(201) 547-5444	iwilson@jcnj.org

Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

**Resolution Purpose**

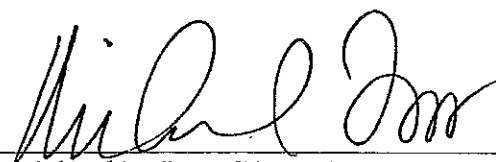
Pursuant to Ordinance 03-061, adopted on May 14, 2003, the property known as 271-285 Martin Luther King Drive was transferred from the Jersey City Redevelopment Agency (JCRA) to the City of Jersey City (City) in accordance with N.J.S.A. 40:54-24 because title of a library building must be held in the name of the municipality. However, the property is used as the Jersey City Public Library-Cunningham Branch. Prior to the transfer of property, JCRA entered into a former Voluntary Cleanup Program and submitted a Memorandum of Agreement application and Remedial Action Work plan (RAW) to the New Jersey Department of Environmental Protection (NJDEP) since historic fill contaminant materials were found during construction. Because contaminants will remain in the property, NJDEP requires the property owner execute a deed notice restricting the use of the property, preserving the environmental remedial actions performed on the property and otherwise subjecting the property to certain statutory and regulatory controls.

**I certify that all the facts presented herein are accurate.**

  
\_\_\_\_\_  
**Signature of Department Director**

\_\_\_\_\_  
**Date**

Prepared by:

  
Richard D. Lev, C.P.G., LSRP

Recorded by:

\_\_\_\_\_  
[Signature, Officer of County Recording Office]

\_\_\_\_\_  
[Print name below signature]

### DEED NOTICE

This Deed Notice is made as of the \_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_ by the City of Jersey City, 280 Grove Street, Jersey City, New Jersey 07302 (together with his/her/its/their successors and assigns, collectively "Owner").

1. THE PROPERTY. The City of Jersey City, 280 Grove Street, Jersey City, New Jersey 07302 is the owner in fee simple of certain real property located at 271-285 MLK Drive and designated as Block 23103, Lot 23, on the tax map of the City of Jersey City, Hudson County; the New Jersey Department of Environmental Protection Program Interest Number (Preferred ID) for the contaminated site which includes this property is 156851; and the property is more particularly described in Exhibit A, which is attached hereto and made a part hereof (the "Property").

#### 2. REMEDIATION.

i. Richard D. Lev, C.P.G., LSRP 577254 has approved this Deed Notice as an institutional control for the Property, which is part of the remediation of the Property.

ii. N.J.A.C. 7:26C-7 requires the Owner, among other persons, to obtain a soil remedial action permit for the soil remedial action at the Property. That permit will contain the monitoring, maintenance and biennial certification requirements that apply to the Property.

3. SOIL CONTAMINATION. The City of Jersey City has remediated contaminated soil at the Property, such that soil contamination remains in certain areas of the Property which contains contaminants in concentrations that do not allow for the unrestricted use of the Property; this soil contamination is described, including the type, concentration and specific location of such contaminants, in Exhibit B, which is attached hereto and made a part hereof. As a result, there is a statutory requirement for this Deed Notice and engineering controls in accordance with N.J.S.A. 58:10B-13.

4. CONSIDERATION. In accordance with the remedial action for the site which included the Property, and in consideration of the terms and conditions of that remedial action, and other

good and valuable consideration, Owner has agreed to subject the Property to certain statutory and regulatory requirements that impose restrictions upon the use of the Property, to restrict certain uses of the Property, and to provide notice to subsequent owners, lessees and operators of the restrictions and the monitoring, maintenance, and biennial certification requirements outlined in this Deed Notice and required by law, as set forth herein.

5A. RESTRICTED AREAS. Due to the presence of contamination remaining at concentrations that do not allow for unrestricted use, the Owner has agreed, as part of the remedial action for the Property, to restrict the use of certain parts of the Property (the "Restricted Areas"); a narrative description of these restrictions is provided in Exhibit C, which is attached hereto and made a part hereof. The Owner has also agreed to maintain a list of these restrictions on site for inspection by governmental officials.

5B. RESTRICTED LAND USES. The following statutory land use restrictions apply to the Restricted Areas:

i. The Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-12.g(10), prohibits the conversion of a contaminated site, remediated to non-residential soil remediation standards that require the maintenance of engineering or institutional controls, to a child care facility, or public, private, or charter school without the Department's prior written approval, unless a presumptive remedy is implemented; and

ii. The Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-12.g(12), prohibits the conversion of a landfill, with gas venting systems and or leachate collection systems, to a single family residence or a child care facility without the Department's prior written approval.

5C. ENGINEERING CONTROLS. Due to the presence and concentration of these contaminants, the Owner has also agreed, as part of the remedial action for the Property, to the placement of certain engineering controls on the Property; a narrative description of these engineering controls is provided in Exhibit C.]

6A. CHANGE IN OWNERSHIP AND REZONING.

i. The Owner and the subsequent owners and lessees, shall cause all leases, grants, and other written transfers of an interest in the Restricted Areas to contain a provision expressly requiring all holders thereof to take the Property subject to the restrictions contained herein and to comply with all, and not to violate any of the conditions of this Deed Notice. Nothing contained in this Paragraph shall be construed as limiting any obligation of any person to provide any notice required by any law, regulation, or order of any governmental authority.

ii. The Owner and the subsequent owners shall provide written notice to the Department of Environmental Protection on a form provided by the Department and available at [www.nj.gov/srp/forms](http://www.nj.gov/srp/forms) within thirty (30) calendar days after the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of the owner's interest in the Restricted Area.

iii. The Owner and the subsequent owners shall provide written notice to the Department, on a form available from the Department at [www.nj.gov/srp/forms](http://www.nj.gov/srp/forms), within thirty (30) calendar days after the owner's petition for or filing of any document initiating a rezoning of the Property to residential.

6B. SUCCESSIONS AND ASSIGNS. This Deed Notice shall be binding upon Owner and upon Owner's successors and assigns, and subsequent owners, lessees and operators while each is an owner, lessee, or operator of the Property.

#### 7A. ALTERATIONS, IMPROVEMENTS, AND DISTURBANCES.

i. The Owner and all subsequent owners and lessees shall notify any person, including, without limitation, tenants, employees of tenants, and contractors, intending to conduct invasive work or excavate within the Restricted Areas, of the nature and location of contamination in the Restricted Areas, and, of the precautions necessary to minimize potential human exposure to contaminants.

ii. Except as provided in Paragraph 7B, below, no person shall make, or allow to be made, any alteration, improvement, or disturbance in, to, or about the Property which disturbs any engineering control at the Property without first obtaining a soil remedial action permit modification pursuant to N.J.A.C. 7:26C-7. Nothing herein shall constitute a waiver of the obligation of any person to comply with all applicable laws and regulations including, without limitation, the applicable rules of the Occupational Safety and Health Administration.

iii. Notwithstanding subparagraph 7Aii., above, a soil remedial action permit modification is not required for any alteration, improvement, or disturbance provided that the owner, lessee or operator:

(A) Notifies the Department of Environmental Protection of the activity by calling the DEP Hotline, at 1-877-WARN-DEP or 1-877-927-6337, within twenty-four (24) hours after the beginning of each alteration, improvement, or disturbance;

(B) Restores any disturbance of an engineering control to pre-disturbance conditions within sixty (60) calendar days after the initiation of the alteration, improvement or disturbance;

(C) Ensures that all applicable worker health and safety laws and regulations are followed during the alteration, improvement, or disturbance, and during the restoration;

(D) Ensures that human exposure to contamination in excess of the remediation standards does not occur; and

(E) Describes, in the next biennial certification the nature of the alteration, improvement, or disturbance, the dates and duration of the alteration, improvement, or disturbance, the name of key individuals and their affiliations conducting the alteration,

improvement, or disturbance, a description of the notice the Owner gave to those persons prior to the disturbance.

7B. EMERGENCIES. In the event of an emergency which presents, or may present, an unacceptable risk to the public health and safety, or to the environment, or immediate environmental concern, see N.J.S.A. 58:10C-2, any person may temporarily breach an engineering control provided that that person complies with each of the following:

- i. Immediately notifies the Department of Environmental Protection of the emergency, by calling the DEP Hotline at 1-877-WARNDEP or 1-877-927-6337;
- ii. Hires a Licensed Site Remediation Professional (unless the Restricted Areas includes an unregulated heating oil tank) to respond to the emergency;
- iii. Limits both the actual disturbance and the time needed for the disturbance to the minimum reasonably necessary to adequately respond to the emergency;
- iv. Implements all measures necessary to limit actual or potential, present or future risk of exposure to humans or the environment to the contamination;
- v. Notifies the Department of Environmental Protection when the emergency or immediate environmental concern has ended by calling the DEP Hotline at 1-877-WARNDEP or 1-877-927-6337; and
- vi. Restores the engineering control to the pre-emergency conditions as soon as possible, and provides notification to the Department of Environmental Protection within sixty (60) calendar days after completion of the restoration of the engineering control, including: (a) the nature and likely cause of the emergency; (b) the potential discharges of or exposures to contaminants, if any, that may have occurred; (c) the measures that have been taken to mitigate the effects of the emergency on human health and the environment; (d) the measures completed or implemented to restore the engineering control; and (e) the changes to the engineering control or site operation and maintenance plan to prevent reoccurrence of such conditions in the future.

#### 8. TERMINATION OF DEED NOTICE.

- i. This Deed Notice may be terminated only upon filing of a Termination of Deed Notice, available at N.J.A.C. 7:26C Appendix C, with the office of the Register of Deeds and Mortgages of Hudson County, New Jersey, expressly terminating this Deed Notice.
- ii. Within thirty (30) calendar days after the filing of a Termination of Deed Notice, the owner of the property shall apply to the Department for termination of the soil remedial action permit pursuant to N.J.A.C. 7:26C-7.

9. ACCESS. The Owner, and the subsequent owners, lessees and operators agree to allow the Department, its agents and representatives access to the Property to inspect and evaluate the continued protectiveness of the remedial action that includes this Deed Notice and to conduct

additional remediation to ensure the protection of the public health and safety and of the environment if the subsequent owners, lessees and operators, during their ownership, tenancy, or operation, and the Owner fail to conduct such remediation pursuant to this Deed Notice as required by law. The Owner, and the subsequent owners and lessees, shall also cause all leases, subleases, grants, and other written transfers of an interest in the Restricted Areas to contain a provision expressly requiring that all holders thereof provide such access to the Department.

#### 10. ENFORCEMENT OF VIOLATIONS.

i. This Deed Notice itself is not intended to create any interest in real estate in favor of the Department of Environmental Protection, nor to create a lien against the Property, but merely is intended to provide notice of certain conditions and restrictions on the Property and to reflect the regulatory and statutory obligations imposed as a conditional remedial action for this site.

ii. The restrictions provided herein may be enforceable solely by the Department against any person who violates this Deed Notice. To enforce violations of this Deed Notice, the Department may initiate one or more enforcement actions pursuant to N.J.S.A. 58:10-23.11, and N.J.S.A. 58:10C, and require additional remediation and assess damages pursuant to N.J.S.A. 58:10-23.11, and N.J.S.A. 58:10C.

11. SEVERABILITY. If any court of competent jurisdiction determines that any provision of this Deed Notice requires modification, such provision shall be deemed to have been modified automatically to conform to such requirements. If a court of competent jurisdiction determines that any provision of this Deed Notice is invalid or unenforceable and the provision is of such a nature that it cannot be modified, the provision shall be deemed deleted from this instrument as though the provision had never been included herein. In either case, the remaining provisions of this Deed Notice shall remain in full force and effect.

#### 12A. EXHIBIT A. Exhibit A includes the following maps of the Property and the vicinity:

i. Exhibit A-1: Vicinity Map - A map that identifies by name the roads, and other important geographical features in the vicinity of the Property (for example, USGS Quad map, Hagstrom County Maps);

ii. Exhibit A-2A & 2B: Tax Map and Metes and Bounds Description - A tax map of lots and block, as well as metes and bounds description of the Property, including reference to tax lot and block numbers for the Property;

iii. Exhibit A-3: Property Map - A scaled map of the Property, scaled at one inch to 200 feet or less, and if more than one map is submitted, the maps shall be presented as overlays, keyed to a base map; and the Property Map shall include diagrams of major surface topographical features such as buildings, roads, and parking lots.

#### 12B. EXHIBIT B. Exhibit B includes the following descriptions of the Restricted Areas:



i. Exhibit B-1: Restricted Area Map - A separate map for each restricted area that includes:

(A) As-built diagrams of each engineering control, including caps, fences, slurry walls, (and, if any) ground water monitoring wells, extent of the ground water classification exception area, pumping and treatment systems that may be required as part of a ground water engineering control in addition to the deed notice

(B) As-built diagrams of any buildings, roads, parking lots and other structures that function as engineering controls; and

(C) Designation of all soil and sediment sample locations within the restricted areas that exceed any soil or sediment standard that are keyed into one of the tables described in the following paragraph.

ii. Exhibit B-2: Restricted Area Data Table - A separate table for each restricted area that includes either (A) or (B) through (F):

(A) Only for historic fill extending over the entire site or a portion of the site and for which analytical data are limited or do not exist, a narrative that states that historic fill is present at the site, a description of the fill material (e.g., ash, cinders, brick, dredge material), and a statement that such material may include, but is not limited to, contaminants such as PAHs and metals;

(B) Sample location designation from Restricted Area map (Exhibit B-1);

(C) Sample elevation based upon mean sea level;

(D) Name and chemical abstract service registry number of each contaminant with a concentration that exceeds the unrestricted use standard;

(E) The restricted and unrestricted use standards for each contaminant in the table; and

(F) The remaining concentration of each contaminant at each sample location at each elevation.

iii. Exhibit B-3: Cross Sections of Engineering Controls - A diagram showing a generalized construction of each engineering control discussed in Appendix C.

12C. EXHIBIT C. Exhibit C includes narrative descriptions of the institutional controls and engineering controls as follows:

i. Exhibit C-1: Deed Notice as Institutional Control: Exhibit C-1 includes a narrative description of the restriction and obligations of this Deed Notice that are in addition to those described above, as follows:

(A) Description and estimated size of the Restricted Areas as described above;

(B) Description of the restrictions on the Property by operation of this Deed Notice;  
and

(C) The objective of the restrictions.

ii. Exhibit C-2: Asphalt Pavement Areas: Exhibit C-2 includes a narrative description of Asphalt Pavement Areas as follows:

(A) Description of the engineering control;

(B) The objective of the engineering control; and

(C) How the engineering control is intended to function.

iii. Exhibit C-3: Concrete Slabs, Sidewalk, and Curb Areas: Exhibit C-3 includes a narrative description of Concrete Slab, Sidewalk, and Curb Areas as follows:

(A) Description of the engineering control;

(B) The objective of the engineering control; and

(C) How the engineering control is intended to function.

iv. Exhibit C-4: Landscaped Soil Areas: Exhibit C-4 includes a narrative description of Landscaped Soil Areas as follows:

(A) Description of the engineering control;

(B) The objective of the engineering control; and

(C) How the engineering control is intended to function.

13. SIGNATURES. IN WITNESS WHEREOF, Owner has executed this Deed Notice as of the date first written above.

ATTEST:

City of Jersey City

\_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_  
[Print name and title]

\_\_\_\_\_  
[Signature]

STATE OF NEW JERSEY  
COUNTY OF HUDSON

SS.:

I certify that on \_\_\_\_\_, 201\_\_\_\_\_, on behalf of the City of Jersey City, personally came before me, and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the \_\_\_\_\_ of the City of Jersey City,  
[secretary/assistant secretary]  
the corporation named in this document;
- (b) this person is the attesting witness to the signing of this document by the proper corporate officer who is the \_\_\_\_\_ of the corporation;  
[president/vice president]
- (c) this document was signed and delivered by the corporation as its voluntary act and was duly authorized;
- (d) this person knows the proper seal of the corporation which was affixed to this document; and
- (e) this person signed this proof to attest to the truth of these facts.

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Print name and title of attesting witness]

Signed and sworn before me on \_\_\_\_\_, 2013

\_\_\_\_\_, Notary Public

\_\_\_\_\_  
[Print name and title]

## **EXHIBITS**

### **EXHIBIT A      MAPS OF PROPERTY AND VICINITY**

- EXHIBIT A-1:            VICINITY MAP
- EXHIBIT A-2A:        TAX MAP
- EXHIBIT A-2B:        METES AND BOUNDS DESCRIPTION
- EXHIBIT A-3:        PROPERTY MAP

### **EXHIBIT B      DESCRIPTION OF RESTRICTED AREA**

- EXHIBIT B-1:            RESTRICTED AREA MAP
- EXHIBIT B-2:            RESTRICTED AREA DATA TABLE
- EXHIBIT B-3:            CROSS SECTIONS OF ENGINEERING CONTROLS

### **EXHIBIT C      NARRATIVE DESCRIPTION OF INSTITUTIONAL CONTROLS**

- EXHIBIT C-1:            DEED NOTICE AS INSTITUTIONAL CONTROL
- EXHIBIT C-2:            ASPHALT PAVEMENT AREAS
- EXHIBIT C-3:            CONCRETE SLAB, SIDEWALK, AND CURB AREAS
- EXHIBIT C-4:            LANDSCAPED SOIL AREAS



FROM: "NJ Quadrangle, 7.5 Minute Series (Topographic)" USGS, 1955, Photorevised 1966.



**MELICK-TULLY AND ASSOCIATES, P.C.**

Geotechnical Engineers  
& Environmental Consultants  
117 Canal Road  
South Bound Brook, New Jersey 08880  
(732) 356-3400

## VICINITY MAP

Deed Notice - Cunningham Library Property  
271-285 MLK Drive, Block 23103, Lot 23  
Jersey City, Hudson County, New Jersey  
City of Jersey City

JOB NO.  
7391-004\*1E

FILE NO.  
25840

DR. BY  
BJF

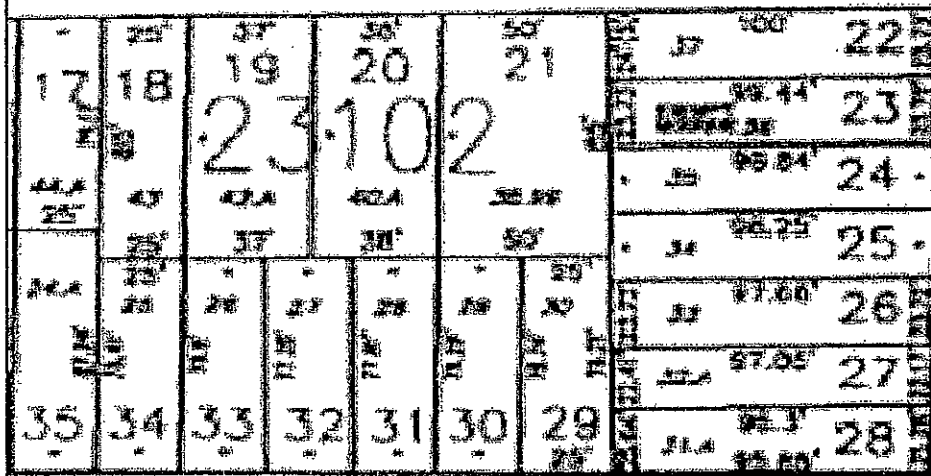
CHK. BY  
RDL

DATE  
11/12/2013

SCALE  
1" = 2,000'

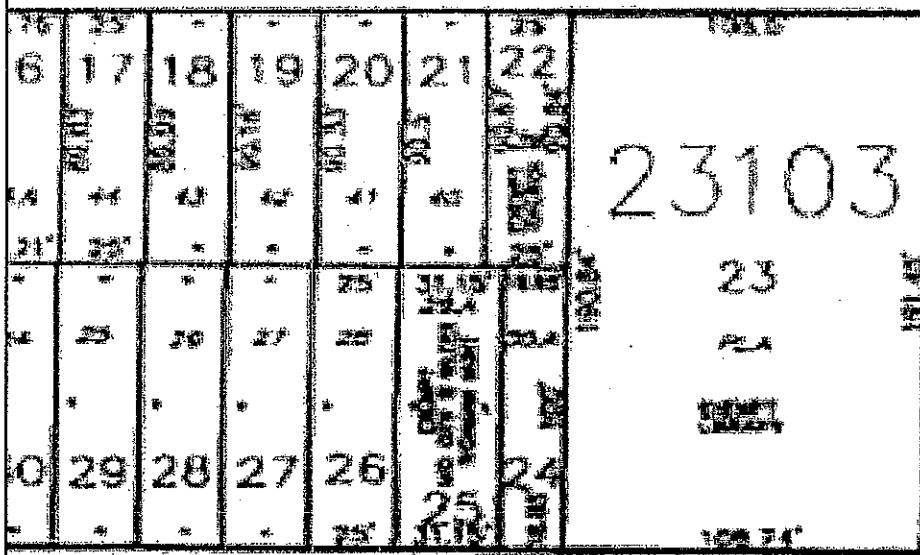
EXHIBIT  
A-1

AVENUE



LUTHER

AVENUE



DR. MARTIN

AVENUE

Source: Jersey City, NJ Tax Map, 2013. Note: The property was formerly identified as Block 1301, Lots 31B, 31C, 32B, 33, 34, 35A, 36A, 37B and 38A, and subsequently as Block 1301, Plot A. The property is currently identified as Block 23103, Lot 23.



MELICK-TULLY AND ASSOCIATES, P.C.

Geotechnical Engineers  
& Environmental Consultants  
117 Canal Road  
South Bound Brook, New Jersey 08880  
(732) 356-3400

## TAX MAP

Deed Notice - Cunningham Library Property

271-285 MLK Drive, Block 23103, Lot 23

Jersey City, Hudson County, New Jersey  
City of Jersey City

JOB NO.

7391-004\*1E

FILE NO.

25840

DR. BY  
BJF

CHK. BY  
RDL

DATE  
11/13/2013

SCALE  
NTS

EXHIBIT  
A-2A


# SCHEDULE A

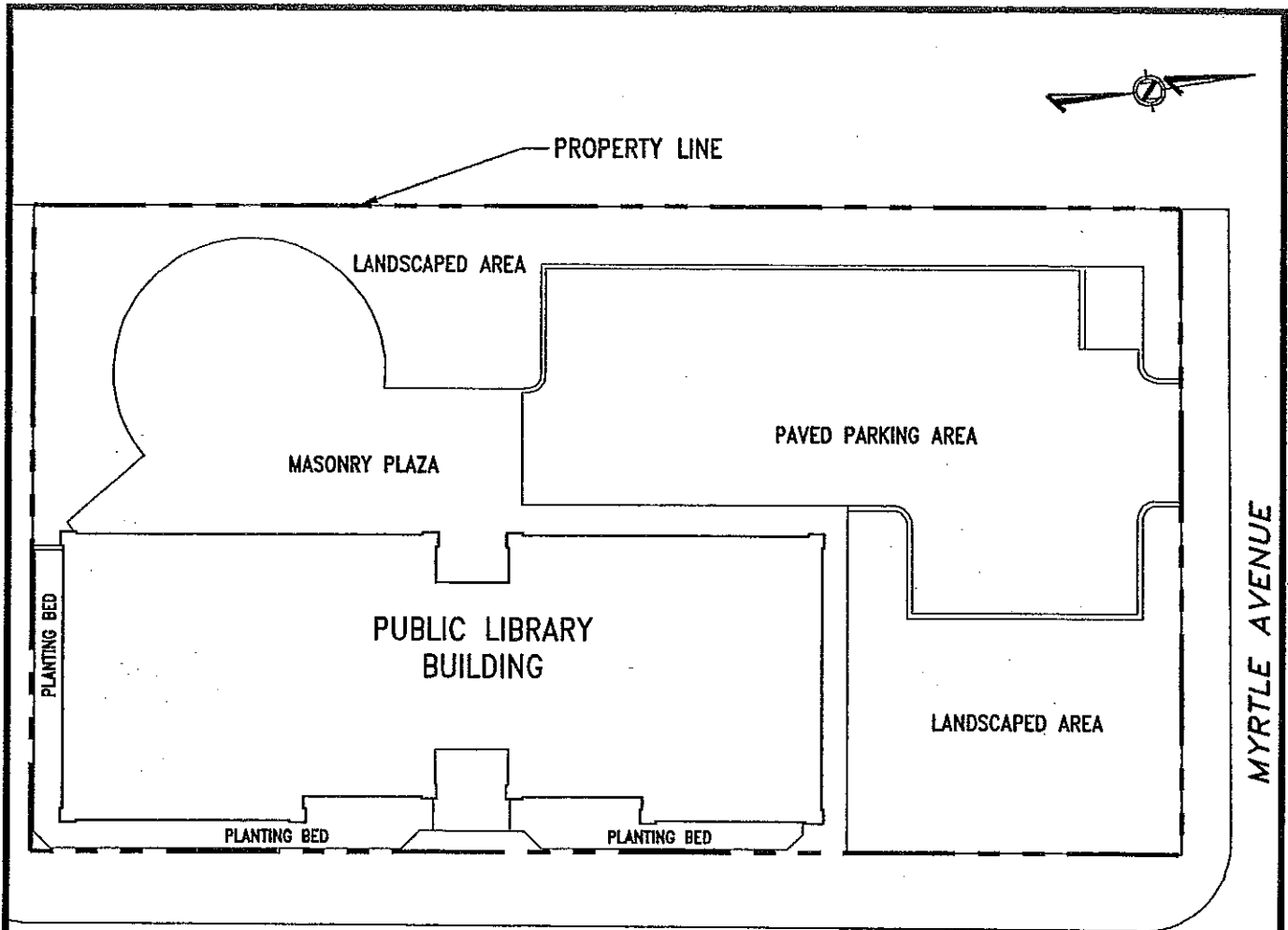
All that tract or parcel of land and premises located in the City of Jersey City, County of Hudson and State of New Jersey, being more particularly described as follows:

BEGINNING at a point formed by the intersection of the northwesterly sideline of Martin Luther King Drive (formerly Jackson Avenue) and the northeasterly sideline of Bostwick Avenue and running thence (1) North 17 degrees 0 minutes West 108.74 feet along the northeasterly sideline of Bostwick Avenue to a point; thence (2) North 53 degrees 0 minutes East 190.84 feet to a point in the southwesterly sideline of Myrtle Avenue; thence (3) South 17 degrees 23 minutes East along the south-<sup>108.50 feet</sup>easterly sideline of Myrtle Avenue to its point of intersection with the northwesterly sideline of Martin Luther King Drive; thence (4) South 52 degrees 55 minutes 40 seconds West 191.56 feet along the southwesterly sideline of Martin Luther King Drive to the point and place of Beginning.

Being commonly known as 271-285 Martin Luther King Drive and being known and designated as Lots 31B, 31C, 32B, 33, 34, 35A, 36A, 37B and 38A in Block 1301 on the Tax Map of the City of Jersey City.

Note: The metes and bounds description above was obtained from a Deed of the property (Book 3930, Page 107) provided the City of Jersey City Tax Assessor's office

 <p><b>MELICK-TULLY AND ASSOCIATES, P.C.</b> Geotechnical Engineers &amp; Environmental Consultants 117 Canal Road South Bound Brook, New Jersey 08880 (732) 356-3400</p>		<p><b>METES AND BOUNDS DESCRIPTION</b></p> <p>Deed Notice - Cunningham Library Property 271-285 MLK Drive, Block 23103, Lot 23 Jersey City, Hudson County, New Jersey City of Jersey City</p>				
<p>JOB NO. 7391-004*1E</p>	<p>FILE NO. 25840</p>	<p>DR. BY BJF</p>	<p>CHK. BY RDL</p>	<p>DATE 11-12-13</p>	<p>SCALE NTS</p>	<p>EXHIBIT A-2B</p>



MARTIN LUTHER KING DRIVE

**NOTE:**

General layout was obtained from a plan prepared by Helena Ruman, AIA, PE, PP, entitled "Site Plan, Details", dated 2002, Revised 4-9-2003, scale 1"=15'.



**MELICK-TULLY AND ASSOCIATES, P.C.**

Geotechnical Engineers  
& Environmental Consultants  
117 Canal Road  
South Bound Brook, New Jersey 08880  
(732) 356-3400

**PROPERTY MAP**

**DEED NOTICE-CUNNINGHAM LIBRARY PROPERTY**  
**271-285 MLK DRIVE, BLOCK 23103, LOT 23**  
**JERSEY CITY, HUDSON COUNTY, NEW JERSEY**  
**CITY OF JERSEY CITY**

**JOB NO.** 7391-004\*1E

**FILE NO.** 25840

**DR. BY**  
VJD

**CHK. BY**  
RDL

**DATE**  
11-14-13

**SCALE**  
1"=30'

**EXHIBIT**  
A-3



## **EXHIBIT B**

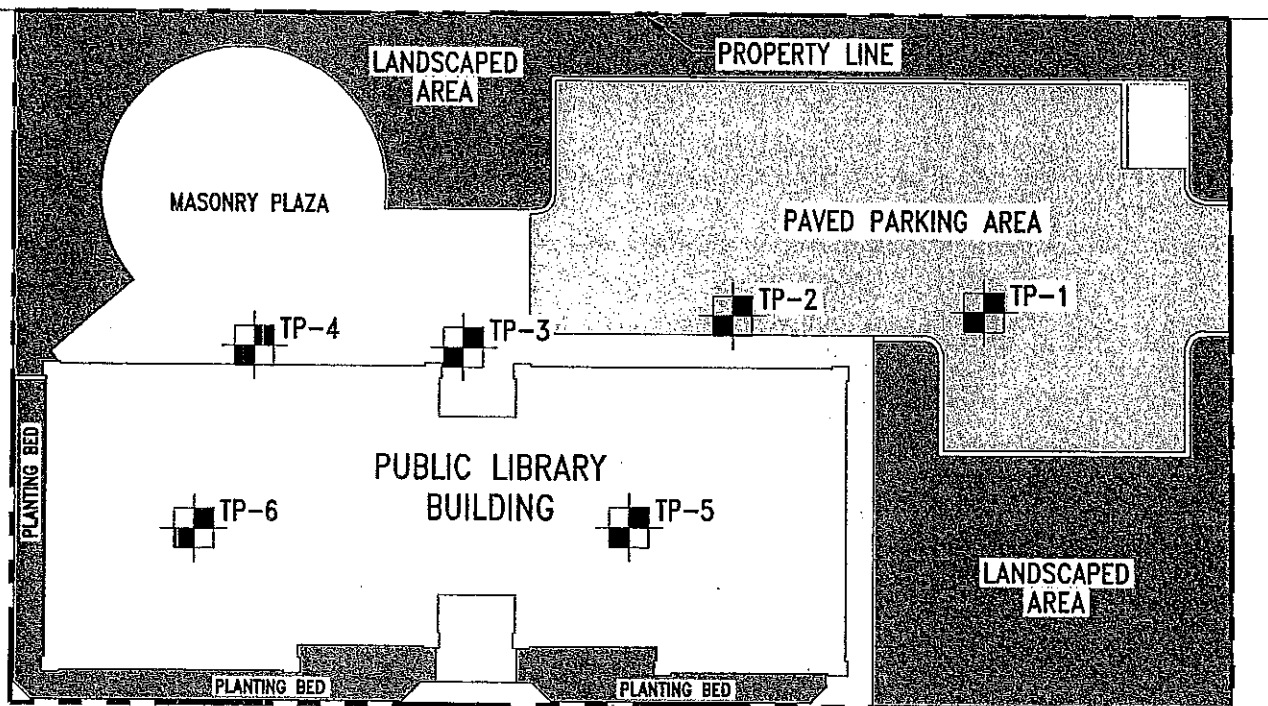
### **Description of Restricted Area**

Historic fill material at the subject property has been documented to consist of soil mixed with variable quantities of bricks, cinders, and ash, and contains polynuclear aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), and lead in excess of the current NJDEP "Residential Direct Contact" Soil Remediation Standards (RDCSRS). The historic fill material blankets the entire property, rendering the entire property as a restricted area. The contaminants listed below are those detected on-site within the restricted area:

<b>Contaminant</b>	<b>Maximum Detected Concentration (ppm)</b>	<b>NJDEP RDCSRS (ppm)</b>
Benzo(a)anthracene	1.08	0.6
Benzo(b)fluoranthene	0.823	0.6
Benzo(a)pyrene	1.10	0.2
Indeno[1,2,3-cd]pyrene	0.638	0.6
Lead	472	400
Total PCBs	0.364	0.2

The restricted area is described in the following exhibits:

- Exhibit B-1:** Restricted Area Map
- Exhibit B-2:** Restricted Area Data Table
- Exhibit B-3:** Cross Sections of Engineering Controls



## MARTIN LUTHER KING DRIVE

### KEY:



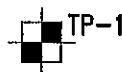
ASPHALT PAVED AREAS



CONCRETE SLAB, SIDEWALK  
AND CURB AREAS



LANDSCAPED SOIL  
AREAS



NUMBER AND APPROXIMATE  
LOCATION OF TEST PITS EXCAVATED  
TO SAMPLE HISTORIC FILL

### NOTE:

General layout was obtained from a plan prepared by Helena Ruman, AIA, PE, PP, entitled "Site Plan, Details", dated 2002, Revised 4-9-2003, scale 1"=16'.



MELICK-TULLY AND ASSOCIATES, P.C.

Geotechnical Engineers  
& Environmental Consultants  
117 Canal Road  
South Bound Brook, New Jersey 08880  
(732) 356-3400

## RESTRICTED AREA MAP

DEED NOTICE-CUNNINGHAM LIBRARY PROPERTY  
271-285 MLK DRIVE, BLOCK 23103, LOT 23  
JERSEY CITY, HUDSON COUNTY, NEW JERSEY  
CITY OF JERSEY CITY

JOB NO. 7391-004\*1E

FILE NO. 25840

DR. BY  
VJD

CHK. BY  
RDL

DATE  
11-14-13

SCALE  
1"=30'

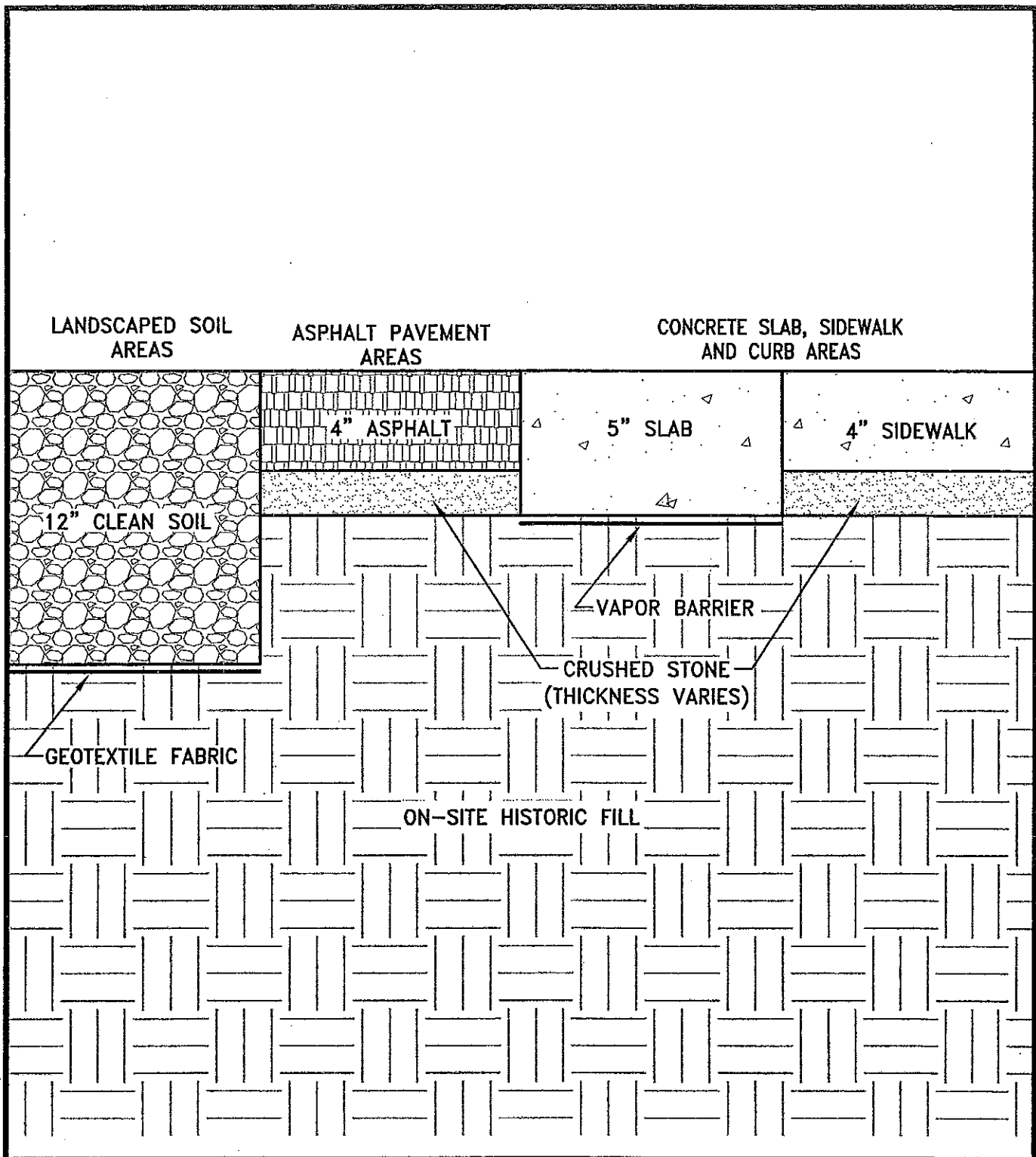
EXHIBIT  
B-1

**Exhibit B-2: Restricted Area Data Table**

<b>Sample Location (1)</b>	<b>Sample Elevation (ft) (2)</b>	<b>Contaminant</b>	<b>CAS Number (3)</b>	<b>Concentration (ppm) (4)</b>	<b>NJDEP RDCSRS (5)</b>	<b>NJDEP RDCSRS (6)</b>
TP-2	85.0-89.0	Lead	7439-92-1	472.0	400	800
TP-3	85.0-89.0	Benzo(a)anthracene	56-55-3	1.08	0.6	2
	85.0-89.0	Benzo(b)fluoranthene	50-32-8	0.823	0.6	2
	85.0-89.0	Benzo(a)pyrene	50-32-8	1.10	0.2	0.2
	85.0-89.0	Indeno[1,2,3-cd]pyrene	193-39-5	0.638	0.6	2
	85.0-89.0	Lead	7439-92-1	407	400	800
	85.0-89.0	PCB's	1336-36-3	0.364	0.2	1
TP-5	85.0-89.0	Benzo[a]anthracene	56-55-3	2.31	0.6	2
	85.0-89.0	Benzo[b]fluoranthene	50-32-8	1.77	0.6	2
	85.0-89.0	Benzo[a]pyrene	50-32-8	2.05	0.2	0.2
	85.0-89.0	Indeno[1,2,3-cd]pyrene	193-92-1	1.04	0.6	2
TP-6	85.0-89.0	Benzo(a)anthracene	56-55-3	4.26	0.6	2
	85.0-89.0	Benzo(b)fluoranthene	50-32-8	3.72	0.6	2
	85.0-89.0	Benzo(a)pyrene	50-32-8	4.70	0.2	0.2
	85.0-89.0	Indeno[1,2,3-cd]pyrene	193-92-1	2.32	0.6	2
TP-8	85.0-89.0	Benzo(a)anthracene	56-55-3	2.82	0.6	2
	85.0-89.0	Benzo(b)fluoranthene	50-32-8	2.17	0.6	2
	85.0-89.0	Benzo(a)pyrene	50-32-8	2.65	0.2	0.2
	85.0-89.0	Indeno[1,2,3-cd]pyrene	193-92-1	1.38	0.6	2

**Notes:**

1. See Exhibit B-1 for test pit locations
2. For reference, the library building floor is established at Elevation +91.0 ft.
3. Chemical abstract service
4. ppm = parts per million
5. RDCSRS = NJDEP Residential Direct Contact Soil Remediation Standard
6. NRDCSRS = NJDEP Non-Residential Direct Contact Soil Remediation Standard



MELICK-TULLY AND ASSOCIATES, P.C.

Geotechnical Engineers  
& Environmental Consultants  
117 Canal Road  
South Bound Brook, New Jersey 08880  
(732) 356-3400

## CROSS-SECTION OF ENGINEERING CONTROLS

DEED NOTICE-CUNNINGHAM LIBRARY PROPERTY  
271-285 MLK DRIVE, BLOCK 23103, LOT 23  
JERSEY CITY, HUDSON COUNTY, NEW JERSEY  
CITY OF JERSEY CITY

JOB NO. 7391-004\*1E

FILE NO. 25840

DR. BY  
VJD

CHK. BY  
RDL

DATE  
11-14-13

SCALE  
N.T.S.

EXHIBIT  
B-3

**EXHIBIT C-1**  
**Narrative Description of the**  
**Institutional Control on the Property**

**Deed Notice as Institutional Control**

**A) General Description of this Deed Notice:**

- 1) The Restricted Area consists of the entire property. Capping features are present on the entire property which prevents direct exposure to historic fill materials present at the property. The property is approximately 0.45 acres in area, and as shown in Exhibit B-1, includes asphalt paved areas, concrete sidewalk, slab, and curb areas, and landscaped soil areas. Beneath the capping features in the Restricted Area is historic fill containing polynuclear aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs) and lead at concentrations above the current NJDEP "Residential Direct Contact" Soil Remediation Standards (RDCSRS). The concentration data for the Restricted Area is shown on Exhibit B-2 (Restricted Area Data Plan) and Exhibit B-3 (Restricted Area Data Table).

- 2) The restrictions on the Property are described as follows:

An approved cap is present at the property which minimizes potential exposure to the PAHs, PCBs, and lead detected in the historic fill materials at concentrations above the RDCSCC. Protection against contact with the on-site historic fill material is provided by the approved engineering control (cap) as described in this Deed Notice which shall be properly maintained as described herein. Any proposed land disturbance on the property beyond those required to address and restore emergency conditions is subject to prior review and approval by NJDEP.

**B) Description of Necessary Monitoring Requirements:**

The Deed Notice requires biennial monitoring to determine whether:

- 1) any disturbances of the engineered cap in the Restricted Area resulted in the unacceptable exposure to the on-site soil contamination;
- 2) there have been any land use changes subsequent to the filing of this Deed Notice or the most recent biennial certification, whichever is more recent;
- 3) the current land use on the Property is consistent with the restrictions in this Deed Notice;
- 4) any newly promulgated or modified requirements of applicable regulations or laws apply to the site; and
- 5) any new standards, regulations, or laws apply to the site that might necessitate additional sampling in order to evaluate the protectiveness of the remedial action which includes this Deed Notice, and conduct the necessary sampling.

C) Description of the following items that will be included in the biennial certification:

- 1) A monitoring report that describes the specific activities, pursuant to (A) and (B), above, conducted in support of the biennial certification of the protectiveness of the remedial action that includes this Deed Notice;
- 2) Land use at the property is consistent with the restrictions of this Deed Notice; and
- 3) The remedial action, which includes this Deed Notice, continues to be protective of the public health and the safety of the environment.

**EXHIBIT C-2**  
**Narrative Description of the**  
**Engineering Controls on the Property**

**Asphalt Pavement Area**

**A) General Description of the Engineering Control.**

**1) A description of the engineering control:**

The property contains asphalt pavement in portions of the Restricted Area. The engineering control consists of asphalt at approximately four inches in thickness, constructed upon a base of crushed stone of varying thickness.

**2) The objective of the engineering control:**

The objective of the engineering control is to encapsulate the Restricted Area to minimize exposure to the on-site historic fill materials.

**3) The intended function of the engineering control:**

The engineering control will function as the parking areas and roadways at the site.

**B) Description of the operations and maintenance necessary to ensure that:**

- 1) Periodic inspections of each engineering control shall be performed by a representative of the property owner to determine the integrity, operability, and effectiveness of the engineering controls;**
- 2) Each inspection shall determine whether each engineering control continues as designed and intended to protect the public health and safety and the environment;**
- 3) Each alteration, excavation or disturbance of any engineering control is timely and appropriately addressed to maintain the integrity of the engineering control;**
- 4) This engineering control is being inspected and maintained and its integrity remains so that the remedial action continues to be protective of the public health and safety and of the environment;**
- 5) A record of the self-inspection dates, name of the inspector, results of the inspection and condition(s) of this engineering control. Sampling, for example, may be necessary if it is not possible to visually evaluate the integrity/performance of this engineering control; and**

- 6) Any new standards, regulations, or laws apply to the site that might necessitate additional sampling in order to evaluate the protectiveness of the remedial action which includes this Deed Notice, and conduct the necessary sampling.

C) Description of the following items that will be included in the biennial certification:

- 1) A monitoring report that describes the specific activities, pursuant to (A) and (B), above, conducted in support of the biennial certification of the protectiveness of the remedial action that includes this Deed Notice;
- 2) The engineering controls continue to operate as designed; and
- 3) The remedial action that includes the engineering control continues to be protective of the public health and safety and of the environment.



**EXHIBIT C-3**  
**Narrative Description of the**  
**Engineering Controls on the Property**

**Concrete Slab, Sidewalk, and Curb Areas**

**A) General Description of the Engineering Control.**

**1) A description of the engineering control:**

The property contains a library building constructed with a concrete building slab, and concrete sidewalks and curbs throughout the Restricted Area. The engineering control consists of a 5-inch thick concrete building slab constructed with a vapor barrier, 4-inch thick sidewalks constructed upon crushed stone of varying thickness, and concrete curbs.

**2) The objective of the engineering control:**

The objective of the engineering control is to encapsulate the Restricted Area to minimize exposure to the on-site historic fill materials.

**3) The intended function of the engineering control:**

The engineering control will function as the floor of the library building and as concrete sidewalks and curbs at the site.

**B) Description of the operations and maintenance necessary to ensure that:**

1) Periodic inspections of each engineering control shall be performed by a representative of the property owner to determine the integrity, operability, and effectiveness of the engineering controls;

2) Each inspection shall determine whether each engineering control continues as designed and intended to protect the public health and safety and the environment;

3) Each alteration, excavation or disturbance of any engineering control is timely and appropriately addressed to maintain the integrity of the engineering control;

4) This engineering control is being inspected and maintained and its integrity remains so that the remedial action continues to be protective of the public health and safety and of the environment;

5) A record of the self-inspection dates, name of the inspector, results of the inspection and condition(s) of this engineering control. Sampling, for example, may be necessary if it is not possible to visually evaluate the integrity/performance of this engineering control; and

6) Any new standards, regulations, or laws apply to the site that might necessitate additional sampling in order to evaluate the protectiveness of the remedial action which includes this Deed Notice, and conduct the necessary sampling.

C) Description of the following items that will be included in the biennial certification:

1) A monitoring report that describes the specific activities, pursuant to (A) and (B), above, conducted in support of the biennial certification of the protectiveness of the remedial action that includes this Deed Notice;

2) The engineering controls continue to operate as designed; and

3) The remedial action that includes the engineering control continues to be protective of the public health and safety and of the environment.

**EXHIBIT C-4**  
**Narrative Description of the**  
**Engineering Controls on the Property**

**Landscaped Soil Areas**

**A) General Description of the Engineering Control.**

**1) A description of the engineering control:**

The property contains landscaped soil areas throughout the Restricted Area. The engineering control consists of 12 inches of a clean soil cap placed upon a geotextile fabric. Localized mulch beds are present within the landscaped soil area.

**2) The objective of the engineering control:**

The objective of the engineering control is to encapsulate the Restricted Area to minimize exposure to the on-site historic fill materials.

**3) The intended function of the engineering control:**

The engineering control will function as landscaped soil areas at the site.

**B) Description of the operations and maintenance necessary to ensure that:**

1) Periodic inspections of each engineering control shall be performed by a representative of the property owner to determine the integrity, operability, and effectiveness of the engineering controls;

2) Each inspection shall determine whether each engineering control continues as designed and intended to protect the public health and safety and the environment;

3) Each alteration, excavation or disturbance of any engineering control is timely and appropriately addressed to maintain the integrity of the engineering control;

4) This engineering control is being inspected and maintained and its integrity remains so that the remedial action continues to be protective of the public health and safety and of the environment;

5) A record of the self-inspection dates, name of the inspector, results of the inspection and condition(s) of this engineering control. Sampling, for example, may be necessary if it is not possible to visually evaluate the integrity/performance of this engineering control; and

6) Any new standards, regulations, or laws apply to the site that might necessitate additional sampling in order to evaluate the protectiveness of the remedial action which includes this Deed Notice, and conduct the necessary sampling.

C) Description of the following items that will be included in the biennial certification:

- 1) A monitoring report that describes the specific activities, pursuant to (A) and (B), above, conducted in support of the biennial certification of the protectiveness of the remedial action that includes this Deed Notice;
- 2) The engineering controls continue to operate as designed; and
- 3) The remedial action that includes the engineering control continues to be protective of the public health and safety and of the environment.

## ORDINANCE OF JERSEY CITY, N.J.



COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 15.048

TITLE:

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING AMENDMENTS  
TO THE DEFINITIONS AND SUPPLEMENTARY ZONING REGULATIONS OF THE LAND DEVELOPMENT  
ORDINANCE**

**WHEREAS**, the Municipal Council, pursuant to NJSA 40:55D-62, may adopt or amend a zoning ordinance relating to the nature and extent of the uses of land and of buildings and structures thereon; and

**WHEREAS**, the Municipal Council adopted the Land Development Ordinance, Chapter 345 of the Code of the City of Jersey City, on April 11, 2001, (Ordinance No. 01-042), and several amendments since then; and

**WHEREAS**, Article I of the Land Development Ordinance contains definitions; and

**WHEREAS**, the existing definitions for "street" and "story" should be revised for clarity; and

**WHEREAS**, because of the proliferation of food trucks citywide, a definition is needed for "mobile food vendor," and the existing definitions for "restaurant, category two" should be revised to include this; and

**WHEREAS**, a provision is needed in the Supplementary Zoning Regulations to regulate mobile food vendors on certain parking lots and private streets in zones that allow restaurant, category two uses; and

**WHEREAS**, the addition of these definitions and the provision for mobile food vendors is made necessary by the abundance of food trucks citywide, as well as the impending issuance of over 250 new licenses for same, making it critical that we acknowledge these uses and regulate them where appropriate; and

**WHEREAS**, the Municipal Council, pursuant to NJSA 40:55D-64, has sought and received the recommendations of the Jersey City Planning Board relative to these issues; and

**WHEREAS**, the Planning Board at its meeting of March 24, 2015 did vote to recommend that the Municipal Council amend the Definitions and Supplementary Zoning Regulations of the Land Development Ordinance; and

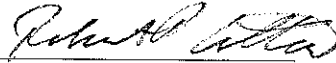
**WHEREAS**, the amendments to the Land Development Ordinance are attached hereto and made a part hereof, and are available for public inspection at the Office of the City Clerk, City Hall, 280 Grove Street, Jersey City, NJ;

**NOW, THEREFORE, BE IT ORDAINED** by the Municipal Council of the City of Jersey City that the Land Development Ordinance, be and hereby is amended as per the attached document;

**BE IT FURTHER ORDAINED THAT:**

- A. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- B. This ordinance shall be a part of the Jersey City Code as though codified and set forth fully herein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
- C. This ordinance shall take effect at the time and in the manner as provided by law.
- D. The City Clerk and the Corporation Council be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible repealers of existing provisions.
- E. The City Planning Division is hereby directed to give notice at least ten days prior to the hearing on the adoption of this Ordinance to the Hudson County Planning board and to all other persons entitled thereto pursuant to N.J.S. 40:55D-15 and N.J.S. 40:55D-63 (if required). Upon the adoption of this Ordinance after public hearing thereon, the City Clerk is directed to publish

notice of the passage thereof and to file a copy of the Ordinance as finally adopted with the Hudson County Planning Board as required by N.J.S. 40:55D-16. The clerk shall also forthwith transmit a copy of this Ordinance after final passage to the Municipal Tax Assessor as required by N.J.S. 40:49-2.1.



Robert D. Cotter, FAICP, PP, Director  
Division of City Planning

APPROVED AS TO LEGAL FORM

\_\_\_\_\_  
Corporation Counsel

APPROVED: \_\_\_\_\_

APPROVED: \_\_\_\_\_

\_\_\_\_\_  
Business Administrator

Certification Required ☐

Not Required ☐

**RESOLUTION FACT SHEET – NON-CONTRACTUAL**

This summary sheet is to be attached to the front of any resolution that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the resolution.

**Full Title of Ordinance/Resolution**

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING AMENDMENTS TO THE DEFINITIONS AND SUPPLEMENTARY ZONING REGULATIONS OF THE LAND DEVELOPMENT ORDINANCE**

**Initiator**

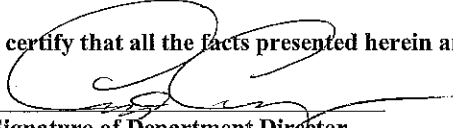
Department/Division	HEDC	City Planning
Name/Title	Robert Cotter, PP, AICP	Director
Phone/email	201-547-5010	bobbyc@jenj.org

Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)


**Resolution Purpose**

The proposed amendments will provide and revise definitions of "street," "story," "Restaurant, Category Two," and "mobile food vendor," and add a provision for Restaurant, Category Two to Supplementary Regulations of the Land Development Ordinance.

I certify that all the facts presented herein are accurate.

  
Signature of Department Director

3/26/15  
Date

  
Signature of Division Director

3.26.15  
Date

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**Department of Housing, Economic Development & Commerce**  
**Division of City Planning**



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**Inter-Office Memorandum**

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**DATE:** March 25, 2015

**TO:** Council President Lavarro, Anthony Cruz, Bob Cotter

**FROM:** Kristin J. Russell, PP, AICP *KJR*

**SUBJECT:** LDO definitions & Supplemental Zoning Regulations amendment

---

The amendments before you pertain to the zoning definitions and supplementary zoning.

First, the definitions of Street and Story have been revised for clarity. These are administrative housekeeping issues and no change to the intent of the definition is proposed.

Second, we have revised the definition of Restaurant, Category Two to include Mobile Food Vendor and added a definition to Mobile Food Vendor.

The reason for these two changes is that the City is experiencing an influx of food trucks and the Dept. of Health and Human Services is set to issue approximately 100 more licenses this spring. In order to simultaneously encourage this entrepreneurial endeavor and regulate its operation, it is necessary to recognize the use in our Land Development Ordinance.

Lastly, we have added language to the Supplementary Zoning Regulations in this regard as well. Specifically, the language states that parking lots and private rights of way in zones that already allow Restaurant, Category Two may allow food trucks to park on those private properties. A person or entity that owns a vacant or underutilized parking lot in those zones may or may not opt to participate, and would be entitled to put any regulations in place deemed necessary, including but not limited to hours of operation, frequency of use, fees if any, and so forth. This is a fact that other cities have taken, with the understanding that the zone allows both parking and restaurants, and thus the combination of the two is inherently permitted.

It should be noted that this regulation does not regulate any vending on public streets, as that is the purview of the Parking Department. But, by regulating off-street vending and allowing it in commercial zones, we believe that we will prevent negative impacts and keep the use controlled within the confines with which we are comfortable.



Summary Sheet:

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY  
CITY ADOPTING AMENDMENTS TO THE DEFINITIONS AND  
SUPPLEMENTARY ZONING REGULATIONS OF THE LAND DEVELOPMENT  
ORDINANCE**

The proposed amendments will provide and revise definitions of “street,” “story,”  
“Restaurant, Category Two,” and “mobile food vendor,” and add a provision for  
Restaurant, Category Two to Supplementary Regulations of the Land Development  
Ordinance.

## **§ 345-6. - Definitions.**

**MOBILE FOOD VENDOR** — *A business that sells food or beverages from a vehicle such as a truck, van or pushcart, whether such food or beverages are prepared on site or prepared elsewhere and transported to the site of the sale.*

**RESTAURANT, CATEGORY TWO** — A restaurant **or mobile food vendor** whose primary function is the preparation and service by employees of food to customers as part of an operation designed to include substantial carry-out service; delivery service; self-service, and which may, but is not required to, include on-premises consumption, except that no drive-in, drive-thru, or service in vehicles is permitted.

**STORY** — That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including those basements used **as a** for the principal use.

**STREET** — A street, avenue, boulevard, road, parkway, viaduct, **or drive or other way but not including alleys or rail rights-of-way:**

- A. Which is an existing state, county or municipal roadway; or
- B. Which is shown upon a plat heretofore approved pursuant to law; or
- C. Which is approved by official action as provided by this Chapter; or
- D. Which is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats;

and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

## **§345-60 Supplementary Zoning Regulations**

### **2. Standards for Specific Accessory Uses.**

#### **d. Restaurant, Category Two**

- i. Zones citywide that permit Restaurant, Category Two shall permit Restaurant, Category Two Mobile Food Vendors on surface parking lots and private rights-of-way with minimum lot frontage of fifty (50) feet.**

City Clerk File No. Ord. 15.049

Agenda No. 3.C 1st Reading

Agenda No. \_\_\_\_\_ 2nd Reading & Final Passage



## ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 15.049

**TITLE:**

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING AMENDMENTS TO THE POWERHOUSE ARTS DISTRICT REDEVELOPMENT PLAN REHABILITATION SUB-DISTRICT**

**WHEREAS**, the Municipal Council of the City of Jersey City, adopted the Powerhouse Arts District Redevelopment Plan on October 27, 2004; and

**WHEREAS**, the Municipal Council seeks to promote the continuing redevelopment of the area by amending the standards and regulations within the redevelopment plan; and

**WHEREAS**, a copy of the amended text is attached hereto and made a part hereof, and is available for public inspection at the Offices of the City Clerk, City Hall, 280 Grove Street, Jersey City, NJ; and

**WHEREAS**, the following amendments to the Powerhouse Arts District Redevelopment Plan have been reviewed by the Jersey City Planning Board at its meeting of November 18, 2014; and

**WHEREAS**; the Planning Board voted to recommend adoption of these amendments by the Municipal Council; and

**NOW, THEREFORE, BE IT ORDAINED** by the Municipal Council of the City of Jersey City that the recommended amendments to the Powerhouse Arts District Redevelopment Plan be, and hereby are, adopted.

**BE IT FURTHER ORDAINED THAT:**

- A. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- B. This ordinance shall be a part of the Jersey City Code as though codified and set forth fully herein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
- C. This ordinance shall take effect at the time and in the manner as provided by law.
- D. The City Clerk and the Corporation Council be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible repealers of existing provisions.
- E. The City Planning Division is hereby directed to give notice at least ten days prior to the hearing on the adoption of this Ordinance to the Hudson County Planning board and to all other persons entitled thereto pursuant to N.J.S. 40:55D-15 and N.J.S. 40:55D-63 (if required). Upon the adoption of this Ordinance after public hearing thereon, the City Clerk is hereby directed to publish notice of the passage thereof and to file a copy of the Ordinance as finally adopted with the Hudson County Planning Board as required by N.J.S. 40:55D-16. The clerk shall also forthwith transmit a copy of this Ordinance after final passage to the Municipal Tax Assessor as required by N.J.S. 40:49-2.1.

Robert D. Cotter, PP, FAICP, Director of Planning

APPROVED AS TO LEGAL FORM

APPROVED:

\_\_\_\_\_  
Corporation Counsel

APPROVED: \_\_\_\_\_

\_\_\_\_\_  
Business Administrator

Certification Required ☐

Not Required ☐

**ORDINANCE/RESOLUTION FACT SHEET – NON-CONTRACTUAL**

This summary sheet is to be attached to the front of any resolution/ordinance that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the resolution/ordinance.

**Full Title of Ordinance/Resolution****ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY  
ADOPTING AMENDMENTS TO THE POWERHOUSE ARTS DISTRICT  
REDEVELOPMENT PLAN REHABILITATION SUB-DISTRICT****Initiator**

Department/Division	HEDC	City Planning
Name/Title	Robert Cotter, PP, AICP	Director
	Jeff Wenger, AICP	Principal Planner
Phone/email	201-547-5010	bobbyc@jcnj.org / jeff@jcnj.org

Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

**Purpose**

This ordinance amends the Rehabilitation Subdistrict within the Powerhouse Arts District Redevelopment Plan, specifically as it relates to Block 11502, Lot 6, better known as the Juan Ribbon Machine Shop building. This amendment will permit a new structure to be built on the site up to a building height limit of 11 stories and 115 feet with specified building step backs to protect light, air, and views for adjacent structures. This amendment will also require restoration of the adjacent cobble stone street and provide for affordable housing requirements.

I certify that all the facts presented herein are accurate.

  
Signature of Department Director

3/30/15  
Date

## **SUMMARY STATEMENT**

### **ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING AMENDMENTS TO THE POWERHOUSE ARTS DISTRICT REDEVELOPMENT PLAN REHABILITATION SUB-DISTRICT**

This ordinance amends the Rehabilitation Subdistrict within the Powerhouse Arts District Redevelopment Plan, specifically as it relates to Block 11502, Lot 6, better known as the Juan Ribbon Machine Shop building. This amendment will permit a new structure to be built on the site up to a building height limit of 11 stories and 115 feet with specified building step backs to protect light, air, and views for adjacent structures. This amendment will also require restoration of the adjacent cobble stone street and provide for affordable housing requirements.

**Proposed Amendments to the Powerhouse Arts District Redevelopment Plan**  
**Specifically: Section VIII. Paragraph A. Rehabilitation Zone**

The following amendments are related only to Section VIII, Paragraph A. of the Redevelopment Plan. All other text and maps within the Redevelopment Plan remain unchanged.

- Existing Text is shown as: Plain Type, inclusive of **Bold Type**
- Text to be removed is shown as: ~~Strike through and highlighted in yellow~~
- Text to be added is shown as: **Bold Italic and highlighted in yellow**
- Floor amendment by Councilperson Osborne at Caucus on March 23, 2015 is shown as **Bold and highlighted in blue**

**A. Rehabilitation Zone**

This zone is designed to accommodate the adaptive re-use of the existing historic resources in the district. It allows for a mix of uses, flexibility in phasing, and where it is found to be historically appropriate, the construction of specific penthouse additions on existing buildings, and new construction on vacant land.

The Rehabilitation Zone consists of the entirety of Blocks 11609 (partial), 11611, 11505, 11504 and 11503, as well as the easternmost portions of blocks 11506, 11509 and 11502, as noted in Map 2.

Development requirements for existing buildings and vacant land, and the development standards for specific buildings and lots shall be as follows, except they shall not apply to projects developed in accordance with Section VIII.F.:

**1. Development Requirements for Existing Buildings:**

- a. All existing buildings shall remain and be rehabilitated as per the JCLDO 345-71. Historic Design Standards and The Secretary of the Interior's Standards for the Treatment of Historic Properties. In addition to the building, specific objects, such as: rooftop water towers, chimneys, loading docks, awnings, windows, brick and stone accents, quoins, shutters, reinforced concrete or color and texture of brick and mortar, shall be maintained.
- b. All existing exterior building elements that contribute to the historic significance of the building shall be required to remain. Existing courtyard elements should be preserved where appropriate.
- c. Any ghost signage on existing buildings shall be refreshed and retained and/or refreshed with the same wording or message that existed historically.

- d. Penthouse additions shall be industrial in nature and incorporate appropriate materials and designs that will not hinder the significance of these historic buildings and may extend a maximum of two additional stories and be set back from the existing facade to the first bay or column below.
- e. Retain all awnings and restore and replace to their original profile. Repair and retain all roof top apparatus, chimneys, water tanks, and the like.
- f. Property owners shall institute a property maintenance regiment designed to prevent the deterioration and decay of buildings.
- g. Minimum separation distance between a new structure or addition within the Rehabilitation Zone and an existing facade within the Rehabilitation Zone, where the existing facade abuts the property line and contains windows that face the new structure or addition: 25 feet between structures, with street front screening provided at the ground level that is consistent with the architecture of the new building.

2. Development Requirements for Vacant Land:

It is a clear purpose of this plan to perpetuate the historic character of the rehabilitation zone as a whole. This purpose shall be achieved through preservation and rehabilitation of existing structures, and by instituting design and bulk standards for new construction such that any new construction within the zone is appropriate and complementary to the character of the zone. Section VI. DESIGN REQUIREMENTS OF ALL DEVELOPMENTS above shall apply to all applications for new development, except that where there may be conflicts between Section VI and this section, the standards that are enunciated by this section shall prevail. The following shall apply to all new buildings on vacant land within the rehabilitation zone:

- a. The footprint of new buildings shall match the footprint of the industrial building that previously existed on the site, including that there be provision for courtyards where courtyards previously existed.
- b. The height of new buildings, including all penthouses and mechanicals, shall not exceed the height of the industrial building to the top of the parapet that previously existed on the site.
- c. The combined FAR and gross parking area of new buildings shall not exceed the FAR of the industrial structure that previously existed on the site.

- d. The height and vertical spacing of windows shall reflect the historic fenestration patterns of the industrial building that previously existed on the site.
  - e. All new construction shall comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the JCLDO 345-71 Historic Preservation Standards, particularly the Standards for New Construction.
  - f. Minimum separation distance between a new structure or addition with the Rehabilitation Zone and an existing facade in the Rehabilitation Zone, where the existing facade abuts the property line and contains windows that face the new structure or addition: 25 feet between structures, with street front screening provided at the ground level that is consistent with the architecture of the new building.
3. Development Standards for Specific Buildings and Lots:
- a. Block 11609, Lot 1 and 2; Hudson & Manhattan Railroad Powerhouse, 1906-1908, Pivotal Individually listed, State and National Registers: Sensitive, historically appropriate interior and exterior rehabilitation of this resource is critical as this is the signature building of the PAD. There shall be some public space within the restored building so that the public may appreciate the character of the building. Retain portions of the interior generating room at full height for interior lobby. Maintain roof profile. No rooftop additions are permitted. Retain, stabilize, and cap stacks. Gently clean facades repoint and replace damaged brick, particularly decorative bricks. Restore existing windows if possible; otherwise install new replacement windows which match the original in terms of configuration, operation, details, material and finish. Eliminate modern exterior metal structures and electrical equipment to the west and maintain an open and public space along all exterior facades of the building. The Eastern part of block 11609 (vacant land) shall be developed into a public park. Construct an appropriate sidewalk on the north side between the building and the light rail tracks to create a pedestrian link between First Street and the waterfront.
  - b. Block 11611 Lot 2; Riegel Sack Company, c. 1900 Contributing. The building has recently been rehabilitated and was redeveloped in accordance with the Morgan Washington Redevelopment Plan. Further rooftop additions are prohibited.
  - c. Block 11611, Lot 1 (f/k/a Block 107, Lot B); Butler Brothers Warehouse, 1904-1905; Pivotal. Gently clean, repair or replace broken, damaged bricks and re-point facade. Replace windows deteriorated beyond repair. Restore the double bronze doors and surround at Warren Street near



Morgan Street. Replace missing awnings above the Bay and Warren Street loading docks, if appropriate, based on site and archival evidence. Permit interior atria or courtyards if roof profile can be maintained. Rooftop additions that are visible from, an elevation of five feet above the sidewalk on the opposite side of the public right-of-way are prohibited. The one story, 100 x 100 power plant structure attached to the main building on the northeast corner of the block shall be retained. A mix of all uses permitted pursuant to Section VII.A and B shall be permitted. Notwithstanding anything herein to the contrary, the work/live and Work/Live Artist Studios unit requirements in Section VI.I, the marketing requirements in Section VII.E and the ground floor use and street frontage requirements in Sections VII. C and H may, but need not be complied with. Residential units and amenities are permitted on the ground floor and along street frontages provided the ground floor contains a minimum of 3,500 sq ft of gallery space and a minimum of 4,000 sq ft of artist workspace and/or studios.

The following affordable Housing Requirement shall be applicable when the building located at Block 11611, Lot 1 (f/k/a Block 107, Lot B); known as the Butler Brothers Warehouse, will be rehabilitated and re-used consistent with the Rehabilitation Zone Standards in Section VIII. A3c. herein, (contained in the paragraph above):

1. At least ten (10%) percent of all traditional residential market rate units built in the Project shall be restricted to the exclusive use and occupancy as "work force" rental units by income qualifying persons and their families; and
2. The maximum rent of the work force rental units shall be affordable to households earning one hundred twenty percent (120%) of median income for Hudson County, as defined by the income limits/maximum rents of the New Jersey Housing and Mortgage Finance Agency for the Low Income Housing Tax Credit Program; and
3. The work force units shall remain subject to the above-described affordability and occupancy requirements for a period of thirty (30) years from the date of the issuance of the first Certificate of Occupancy for a work force unit; and
4. The work force units shall (i) be comparable in range and size to the range and sizes of traditional residential market rate units constructed within the building, (ii) use the same building entrances and common areas as the traditional market rate residential units, (iii) have access to the same common area amenities as the traditional market rate residential units, (iv) be disbursed throughout the building, and (v) be completed at the same time as the traditional market rate residential units; and

5. Up to sixty (60%) percent of the work force housing requirement may be provided off site; and

6. The offsite work force housing requirement may also be satisfied by a payment to the City in the amount of up to one-hundred-fifty thousand dollars (\$150,000) per required work force unit. This payment shall be made in two (2) installments: (1) fifty percent (50%) shall be paid immediately prior to the issuance of a building permit for the building and (2) the remaining fifty percent (50%) shall be paid at the time of issuance of the first final certificate of occupancy for the building. These payments shall be earmarked to sustain or construct affordable housing in Jersey City. In recognition of the extraordinary work and effort associated with the rehabilitation and adaptive re-use of the building and the community benefits associated therewith, any gallery space and artist workspace/studios approved as part of the Project shall count as a credit against the total number of work force units required, feet of gallery space and/or artist workspace/studio space approved; and

7. Nothing herein shall prohibit Certified Artists from qualifying for the work force rental units. The City may require that the work force units be subject to a 180-day exclusive marketing period to Certified Artists who meet the income requirements for work force housing as described herein; and

8. These requirements for work force units shall supersede and replace the requirements for affordable artist housing found in Article VII.F of the PAD.

d. Block 11505, west side of block (formerly lot A1); No structure exists on the lot. Treat construction as new development. New building may be up to six stories, plus a penthouse that is setback from the building facade on all sides so that it is not visible from an elevation of five feet above the sidewalk on the opposite side of the public Right-of-way.

e. Block 11505, east side of lot (formerly lot B1), There currently exist four structures on the lot, as follows:

- Northeast corner. Dairyman's Manufacturing Company, pre-1919; contributing; five story reinforced concrete building. Restore facade, repairing masonry walls where necessary and open blocked walls, replace windows.
- Southeast corner. Dairyman's Manufacturing Building, 1904 (a.k.a. Dairyman's milk can factory); Noncontributing two story structure. Originally five stories, the building has been radically altered. New

building shall not exceed the height of the five story reinforced concrete building that is adjacent on the same lot. Treat construction as new development.

- Northwest corner and mid-lot. Two one story structures abutting Dairyman's Manufacturing Building at Northeast corner above. Noncontributing. New building shall not exceed one-story. Treat construction as new development.
- f. Block 11504, east side of Lot 2 (formerly Lot A2 East); A & P Bakery, 1915; Contributing. Permit a continuation of the current fourth floor addition to match the setback, profile and height of the existing. Permit one additional story set back two window bays on all street frontages. Retain cornice overhang/return to west on southern facade. Additions to the secondary two story addition on the southern facade shall be permitted to match the height of the additions to the primary building, but shall be set back behind the cornice overhang/return.
- g. Block 11504, west side of Lot 2 (formerly Lot A2 West); A & P Auxiliary Building, 1914; Contributing. Restore to original Profile.
- h. Block 11504, Lot 1; 140 Bay Street & 18-30 Provost Street; AKA, Eckerson Company, and later the J. Leo Cooke Warehouse; popularly known as the Morgan Lofts; Contributing. Approval granted by Zoning Board of Adjustment shall prevail and be incorporated herein by reference.
- i. Block 11503, Lot 1, AKA Merchants Refrigeration Company, ca. 1902; Contributing. Remove exterior cement parging and paint, if appropriate, by the gentlest means possible, avoiding damage to underlying brick. Unblock existing window openings. New window openings may be added if necessary, provided that the new openings reflect the rhythm of the historic window placement along the First or Second Street sides of the building. Rehabilitate loading docks and awnings and "ghost sign" bearing original company name along sixth floor of the Second Street facade. Center courtyards and atria permitted. Permit a one story penthouse, setback a minimum of one column bay from the building edge on all facades, not visible from an elevation of five feet above the sidewalk on the opposite side of the public right-of-way.
- j. Block 11506, Lot 2; The Great Atlantic & Pacific Tea Company Annex, original 1907-1908, -expanded 1915; Contributing. Maintain the 6 Story portion and restore to original profile.
- k. Block 11509, Lot 2; 144-158 Bay Street; AKA, The Great Atlantic & Pacific Tea Company Headquarters, 1907-1915; individually listed, State

and National Registers: Pivotal. This building maintains a unique place in the history of American industry. Redevelopment of this building requires a particularly sensitive approach with due consideration of the historic development of the building and the maintenance of historic building fabric. Rebuild to original/historic profile, maintain sky light and watertanks, gently clean, re-point, and repair brick and concrete, repair existing and replace deteriorated and/or missing awnings and loading docks where appropriate. Permit a one story penthouse setback one column bay from all facades.

1. Block 11502, Lot 6; Juan Ribbon Machine Shop, South Section circa 1873, North Section 1887, ~~Contributing: Remove exterior cement parging and paint, if appropriate, by gentlest means possible, avoiding damage to brick. Repoint and repair damaged brick. Unblock window openings and insert appropriate windows. Maintain existing gable roof. No rooftop additions are permitted.~~ A Warehouse Historic District was established in 2005, but was invalidated by a Superior Court ruling in 2007 on technical grounds. Subsequently, the City conducted an eligibility analysis for the creation of a potential historic district, or to add individual buildings within the study area to the municipal, state and national register. The analysis did not recommend the creation of an historic district. The report concluded that five buildings within the study area meet the criteria of national, state and local landmarks and recommended that they should be listed on the historic registers. The Juan Ribbon Machine Shop is not one of those buildings. (See Jersey City Master Plan Reexamination Report dated February 15, 2011) The Master Plan Reexamination Report specifically recommended to remove the reference to the Warehouse Historic District from the Historic Preservation Element of the Master Plan and to add the five individual buildings which were determined to be eligible for the local, state and national registers.

As a result, the Juan Ribbon Machine Shop building is neither a contributing building to an historic district, nor an individual historic building, and the building need not be retained or renovated. However, at the discretion of the owner, the building may be retained and utilized for any permitted use, or combination of permitted uses, consistent with the requirements of this redevelopment plan. In the alternative, the subject building may be demolished. If the building is demolished, the standards found in Section VII. A. 1. & 2. of this Plan shall not apply to this property. In addition , the work/live unit requirements in Section VI.I, the marketing requirements in Section VII.E and the ground floor use and street frontage requirements in Sections VII. C and H may, but need not, be complied with.

Upon demolition of the building, the following standards and requirements shall apply to the subject property:

1. **Permitted Uses** – In addition to the permitted uses listed in Section VII of this Plan, residential apartments shall be a permitted use.
2. **Maximum Height** - the maximum height of a building constructed pursuant to this section shall be no greater than 11 stories and 115 feet. Subject to the following additional criteria:
  - The maximum height of that portion of the building fronting on Second Street shall be 95 feet. Any stories of the building above 95 feet in height must be setback from Second Street a minimum of 35 feet.
  - The maximum height of that portion of the building fronting on First Street shall be 105 feet. Any stories of the building above 105 feet in height must be setback from First Street a minimum of 15 feet.
  - The 11<sup>th</sup> story facade must step back at least 5 feet from the building facade below along Provost Street.
  - All floors above the ground floor shall have a minimum floor to ceiling height of 9 feet.
3. **FAR** shall be regulated by the required height and setback criteria.
4. **Setback Requirements** – None; except as required by building code standards and paragraph 2 above.
5. **Maximum Permitted Building Coverage** – 100%  
The building coverage of upper floors shall be reduced in compliance with the setback provisions found in paragraph 2 above.
6. **Required Parking** –
  - Residential: Min. of 0.0 per unit & Max. of 0.5 per unit
  - Other: Min. of 0.0 per 1,000 sq.ft. & Max. of 0.5 per 1,000 sq.ft.
7. **Loading** – Off-street loading areas are not required.
8. **Required Off-site Improvements** – Concurrent with the redevelopment of the subject property, the Cobblestone roadway within the right-of-way of Provost Street shall be restored from the center line of First Street to the southern right-of-way line of Second Street. The existing Cobblestones shall be removed,

cleaned, and reset as necessary in order to create a roadway surface acceptable to the City of Jersey City.

**9. Affordable Housing Requirement:**

- Ten (10%) percent of all market rate units constructed in the Project (rounded to the nearest whole number) shall be restricted to the exclusive use and occupancy as "work force" units by income qualifying households; and
- The maximum rent or sales cost of the work force units shall be affordable to households earning one hundred twenty percent (120%) of median income, as defined by the income limits/maximum rents of the New Jersey Housing and Mortgage Finance Agency for the Low Income Housing Tax Credit Program; and
- The work force units shall remain subject to the above-described affordability and occupancy requirements for a period of thirty (30) years from the date of the issuance of the first Certificate of Occupancy for an work force unit; and
- The work force units shall (i) be comparable in range and size to the range and sizes of market rate residential units constructed within the building, (ii) use the same building entrances and common areas as the market rate residential units, (iii) have access to the same common area amenities as the market rate residential units, (iv) be disbursed throughout the building, and (v) be completed at the same time as the market rate residential units; and
- Up to fifty (50%) percent of the work force housing requirement may be provided offsite; and
- The offsite work force housing requirement may also be satisfied by a payment to the City in the amount of up to one-hundred-fifty thousand dollars (\$150,000) per required work force unit. This payment shall be made in two (2) installments: (1) fifty percent (50%) shall be paid immediately prior to the issuance of a building permit for the building and (2) the remaining fifty percent (50%) shall be paid at the time of issuance of the first final certificate of occupancy for the building. These payments shall be earmarked to sustain or construct affordable housing in Jersey City; and
- Nothing herein shall prohibit Certified Artists from qualifying for the work force rental units. The City may require that the work force units be subject to a 180-day exclusive marketing period to Certified Artists who meet the income requirements for work force housing as described herein; and
- These requirements for work force units shall supersede and replace the requirements for affordable artist housing found in Article VII.F of this Plan.